IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 15516 of 2004

Between:

M. Kovvadamma, w/o Peda Veeranna @ Veeranna,
R/o Bodigudem, W.G. District.

..... PETITIONER

AND

1 The Superintendent of Police, West Godavari, Eluru.
2 The Station House Officer, Koyyalagudem, P.S. W.G. District.

.....RESPONDETS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of mandamus, directing the 1st respondent to take on the complaint on the file dt. 18-8-2004 and to investigate the allegations in the complaint afresh and book the accused under Section 307 IPC in FIRNo. 113/2004 consequently direct the respondent to charge sheet the accused under Section 307 I.P.C.

Counsel for the Petitioner : MR. B.CHANDRA SHEKHAR

Counsel for the Respondents : GP FOR HOME

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.15516 OF 2004

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ORAL ORDER :

The petitioner seeks a Writ of Mandamus directing the first respondent to investigate into the allegations on the complaint of the petitioner dated 18-08-2004 and to take action against the accused under Section 307 of the Indian Penal Code in FIR No.113/04.

The petitioner claims to be in possession and enjoyment of Ac.5-53 cents of land. In view of the interference by the third parties, she filed O.S.No.766 of 2003 on the file of the Court of Junior Civil Judge, Kovvur, in which temporary injunction has been granted on 23-12-2003 in I.A.No.3024 of 2003. While so, on 09-08-2004, M.Appa

Rao, M.Kovvadaiah and E.Appalamma trespassed into her lands and tried to have a tussle with her son and daughter-in-law. She lodged a complaint on 09-08-2004 with the 2nd respondent. It is alleged that the petitioner and her family members were severely beaten and on the basis of the complaint, FIR No.113/2004 was registered under Section 324 read with 34 of the Indian Penal Code. However, since the second respondent failed to properly investigate into the case, the petitioner made a complaint dated 18-08-2004 to the 1st respondent narrating the facts and also alleging that the accused are wandering in the village by proclaiming that they will take action against her and her family members. There is also threat to their lives, but the second respondent failed to take any action. It is also alleged that though a clear case was made out attracting the ingredients of the offence punishable under Section 307 of the Indian Penal Code, the 2nd respondent registered the Crime No.113 of 2004 only under Section 324 of the Indian Penal Code. Hence, this writ petition seeking a Writ of Mandamus seeking a direction to the first respondent to consider the complaint dated 18-08-2004 and to investigate the allegations in the complaint afresh.

The Sub-Inspector of Police, Koyyalagudem P.S., West Godavari District filed a counter-affidavit dated 02-10-2004 stating that on the basis of the compliant of the petitioner dated 10-08-2004, Crime No.113 of 2004 was registered under section 324 read with 34 of the Indian Penal Code. The injured persons were also sent to Government Hospital at Koyyalagudem for treatment. It is further stated that basing on the complaint of the petitioner, second respondent verified the case and after thorough investigation, registered the case in Cr.No.113 of 2004. After completion of investigation, second respondent field a charge-sheet before the II-Addl. Judicial First Class Magistrate, Kovvur on 20-08-2004 and that the case is yet to come up for trial.

It is relevant to note that this Court while directing notice to the respondents, by order dated 31-08-2004 directed the first respondent to consider the complaint of the petitioner dated 18-08-2004 and to take appropriate action to provide the protection as sought by the petitioner. In compliance with the orders of this Court, the complaint made by the petitioner dated 18-08-2004 was considered and the first respondent

directed the second respondent to bind over the accused persons who were involved in Cr.No.113 of 2004 and produce them before the Mandal Revenue Officer, Koyyalagudem for their good behaviour. In pursuance thereof, the second respondent produced the accused before the Mandal Executive Magistrate at Koyyalagudem for their good behaviour vide Cr.No.141 to 146 of 2004 under Section 110(G) of Cr.P.C. and accordingly the Mandal Executive Magistrate at Koyyalagudem bound over the accused in the said crime vide M.C.No.29 of 2004 to 33/2004 on 17-09-2004.

In the light of the averments made in the counter-affidavit and particularly keeping in view that after completing the investigation in Cr.No.113 of 2004 a charge-sheet has already been filed before the II-Addl. Judicial First Class Magistrate at Kovvur on 20-08-2004, it is not necessary for this Court to go into the other contentions raised by the petitioner. If the petitioner is still aggrieved, it is open to the petitioner to raise the objections, if any, before the learned Magistrate before whom the charge-sheet was filed, in which event the same shall be considered in accordance with law.

With the above observations, the Writ Petition is disposed of. No costs.

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03rd November, 2004.

Gbs

To

1 The Superintendent of Police, West Godavari, Eluru.
2 The Station House Officer, Koyyalagudem, P.S. W.G. District.

3.2CCs to G.P. for Home, High Court of AP Bldgs, Hyderabad (OUT).

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